



SCALA NEWS



THE NEWSLETTER FOR CONSTRUCTION & ARCHITECTURE PROFESSIONALS SERVING LOCAL AUTHORITIES **MANAGEMENT MATTERS**

OUT WITH THE OLD AND IN WITH THE NEW

At the SCALA Council meeting in Birmingham on 15 May members viewed far reaching proposals to provide a professionally produced colour newsletter on high quality paper. This proposal is a key part of SCALA's aim of continual improvement in services to members and partners, as this publication is seen as a key source of information and is often the first introduction to the society.

This has been made possible by the generous support of *Hays Montrose* and the *Local Government Task Force*. As existing partners with SCALA they are helping to further improve the wide range of construction and architecture services and solutions provided to central and local government by the public and private sectors.

Support was expressed for the proposals presented by Adrian Wright of Lansdowne Publishing Partnership Ltd., publishers of the SCALA Yearbook. Advertising would be sought to help subsidise the publication and the need for strict editorial

control over the content and layout was emphasised as an aid to presentation and readability.

The content of the current SCALAnews, of which this edition will be the last, was praised. Members stressed the need to maintain this valuable flow of information on the work of the society, central government, our partner organisations and others who all play such a vital role in ensuring economy, efficiency and effectiveness in service procurement and provision.

The new SCALAnews will have an increased circulation of 2000 or so going to SCALA and ACA members as well as being distributed through our sponsors. The aim is to fill the information void which exists for those who seek to

provide quality construction and architecture services to the public sector by making SCALA and our partners the first point of reference for those professionals who seek to acquire the necessary knowledge and to network.

Publication will be in September and will feature the shortlist for the new prestigious SCALA 'Building of the Year' award. The presentation will be made at the Presidential Dinner at SCALA 2003 on 17 October following the main event entitled 'The Urban Vision' sponsored by English Partnerships and Norfolk Property Services. Details can be found on the back pages and the location is at Newcastle, which with Gateshead and the surrounding area is a stunning setting for such an event. Delegates will be given the opportunity to visit an architectural 'feast' of buildings and projects in the area.



Peter Bishop, LGTF Project Director, Alan Crane, Chair of Rethinking Construction, Lisa Palmer of Hays Montrose & Nigel Badcock, SCALA President, view proposals for SCALAnews

As part of this process of renewal I will be resigning my role as Editor, as well as my other responsibilities within

SCALA, from the end of the year. No doubt more will be said at a later stage but I would like to say that I have thoroughly enjoyed meeting the challenges presented to me and I hope that I leave the society stronger and more able to represent the views of it's members and partners. More and more members are getting involved in the work and events laid on by the society and expressions of interest in my work are welcomed. I am sure I will see many of you at SCALA 2003 or at the Forums which carry out such valuable work on your behalf. I will be taking an extended break in the New Year and hope to come back revitalised and to assist others if required

Bernard Wyld- Editor



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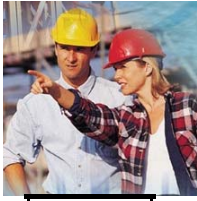
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For further contact details please refer to the back pages of this newsletter

Serving Construction and Architecture in Local Authorities

~Your guide to **ACA SCALA** news~



SCALA event

See the back pages for details of the SCALA 2003 in Newcastle on 17 October 2003 on 'The Urban Vision'. Early booking discount for SCALA & ACA members



ACA SCALA features

Articles on the theme of 'Management Matters' from Robert Smith, Will Werry and Peter Bishop



SCALA diary

A reference list of dates for future SCALA meetings and events including those for the regions and associated organisations



ACA SCALA forum features

The work of the Design and Practice Forums, the new ACA Guide to PPC 2000 & SPC 2000 and school arson which bring readers up to date on current topics & issues of interest



ACA CIPFA Hays Montrose ACASLA cabe liaison

The 'homepages' for our strategic partners are inside as part of SCALA's strategy of networking with our membership and those with whom we partner



- P1 'Out with the old and in with the new'– Lead article on major changes within SCALA
- P3 CIPFA BV&QF *homepage*– David Bentley
- P 4/6 SCALA Study Day '*Balancing time, quality and cost*'– Peter Stanton–Ife
- P7 ACA *homepage* '*Guide to PPC 2000 & SPC 2000*'– Foreword by Alan Crane
- P8/9 Hays Montrose *homepage*– '*Salary survey findings*' by Robert Smith
- P10 SCALA *Design Debate & Practice Progress*– Report on joint meeting by Mukund Patel
- P11/13 SCALA *response to DfES 'Building Schools for the Future'*– Jeff Gibson
- P13 SCALAdiary
- P14/15 The Legal Beagle– Rob Tate on '*Playing the contract game by the rules*'
- P16/17 CABE*page* '*Shifting Sands*'– Annie Atkins
- P17 SCALAnet– a list of useful websites for readers
- P18/19 '*Conditions of service, competition & the EC*'– Will Werry
- P19 ACASLA Account: '*Progress on links with SCALA*'– Donald Murdoch
- P20/21 '*Dousing the flames*'– Mark Barry
- P22/23 '*Building solutions to school arson*'– David Mackness
- P23 Champagne launch of the remodelled website of the Clay Roof Tile Council
- P24 '*Regions to benefit from LGTF champions*'– Peter Bishop
- P25 ACA contract documents
- P26 SCALA publications
- P27/28 SCALA 2003 '*The Urban Vision*' in Newcastle on 17 October 2003

**Closing date
for copy for
the next issue
of the new
all-colour
SCALAnews
is Friday
4 July**

Next edition all-colour quality newsletter. Articles & letters please–Ed.



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CIPFA **SCALA** BV&QF homepage

David Bentley

*CIPFA
Best Value &
Quality Forum
Lead Adviser on
Construction
& Property
Services*

ALL THINGS PRUDENTIAL

A large proportion of my colleagues within the Institute of Public Finance are, not surprisingly, accountants of one form or another. As a humble quantity surveyor myself, I am constantly trying to keep up with the terminology or technical speak that often peculates throughout the organisation. Most recently the word 'Prudential' is increasingly being slipped into conversation with expressions such as "That will clearly change when the Prudential Code comes in", or "There will be much more freedom under the Prudential System!"

Up until a few weeks ago I tended just to nod my head or make an understanding noise to show my complete and utter agreement at such wise words. This of course was intended to hide my complete and utter ignorance on the matter, and hopefully I got away with it. However, the fact that this 'Prudential' word was appearing with increasing regularity started to get me thinking that I needed to really find out and understand why some of my accountancy colleagues were positively drooling at the prospect!

It was even more worrying when a colleague said, and I quote "The Prudential Code is a document written by accountants for accountants, in a way that only accountants can understand, but the ramifications of it could be dramatic across all authorities".

Well that decided it, I quickly organised an in-house training session to provide an insight to all things prudential and what affect it would have on Construction and Property professionals.

So what were the results?

Well I can report three things: -

1. I have never found any session on local government accountancy so understandable and interesting.
2. If the prudential code is used as it is intended, there is a major role for construction and property professionals to play.
3. I can now actually understand what my colleagues are talking about!

You will probably remember the advert for the electric razor, where someone liked the razor so much, they bought the company. Well in this case, we liked the session so much that we have signed up the trainer to repeat it at our next

Construction and Property Workshops in June!

We have called the workshops "Financial Skills for Dummies", and details are below. The Prudential Code will affect us all in a number of ways; so don't let the accountants keep it to themselves Places will be limited so hurry up and book on; otherwise you will have no comment when that 'Prudential' word is mentioned!

The event dates and venues are as follows:

- 9 June - Burton on Trent**
- 10 June - Durham**
- 11 June - Preston**
- 12 June - London**
- 16 June - Bulth Wells**
- 16 June - Scotland**
- 17 June - Taunton**
- 17 June - Scotland**

I do hope that you will be able to attend. If you wish to book, please contact Eve Billings on 020 8667 8581. Please note that subscribers will receive **three free places** and additional places for SCALA and ACA members are £195 plus VAT. We do anticipate that demand for the workshop will be high and would recommend that you book as early as possible to avoid disappointment●

If this notification arrives too late the write-up will be in the Autumn editions of both the CIPFA Bulletin and SCALAnews- Ed.

To find out more about the CIPFA BV & Quality Forum please contact:

David Bentley
Tel: 01543 262030
Email: David.Bentley@ipf.co.uk
or

Chris Brain
Tel: 01275 878378
E-mail: chris.brain@ipf.co.uk
or

Alan Tyler
Tel: 01438 718954
Email: abtyler@nildram.co.uk
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Bernard Wyld
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SCALA STUDY DAY Birmingham 16 May: Presentation by Peter Stanton-Ife 'Balancing time, quality and cost'

*A write-up of the presentation given at the
SCALA Study Day on*

ACCELERATING DELIVERY ACHIEVING QUALITY

Handouts were not available on the day and many delegates have asked for them since so they have been included here. Peter used as the practical illustration for his theme 'Building schools for the future - a new approach to capital investment which was featured in the Easter edition of SCALAnews. The response of the Practice Forum to the consultative document is published later in this edition.

Reform to match investment

Peter Stanton-Ife

Schools Capital Programme Manager

Building schools for the future - a new approach to capital investment

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Reform to match investment

Schools Capital – unprecedented levels

Capital for school buildings:

- 1996-97 £683 million
- 2002-03 £3 billion
- 2005-06 £5.1 billion

This is a great opportunity to reform:

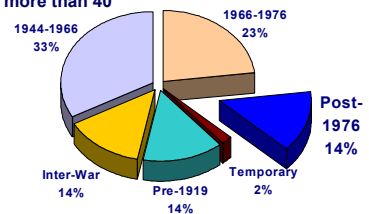
- the way we allocate funding;
- the way we design schools;
- the way we procure school buildings.

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Reform to match investment

School Buildings Today

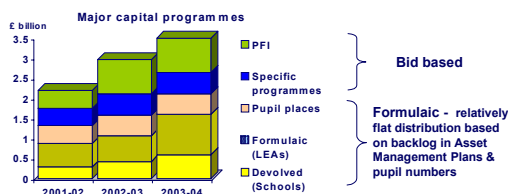
- About 21,000 maintained schools in England
- 7.5 million pupils
- six in seven school buildings more than 25 years old
- three in five more than 40



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Current Capital Allocations



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Reform to match investment

Gains since 1997

- all LEAs and schools have shared in capital funding;
- worst of backlog has been addressed;
- 20,000 schools with major improvements:
 - ? new roofs
 - ? new windows
 - ? better lighting
 - ? new boilers
 - ? temporary classrooms replaced
 - ? outside toilets abolished.

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SCALA STUDY DAY Birmingham 16 May: Presentation by Peter Stanton-Ife 'Balancing time, quality and cost'

Reform to match investment

The current programme only goes so far:

- limited scope for strategic investment;
- focus on patch and mend approach;
- incremental effect on pupils' standards;
- weak drive for better procurement;
- variations in design standards;
- skills shortages in government, LEAs and schools.

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Reform to match investment

Secondary focus:

- raising secondary standards to build on primary success;
- new demands for ICT and for 14-19 agenda;
- supporting workforce reform;
- secondary schools are bigger, more complicated and more costly to build; therefore
- an incremental approach brings slow results.

But also:

- continuing existing successful programmes to schools and LEAs;
- increasing funding available for primary schools.

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Capital Allocations by 2005-06

	2002-03 £ million	2005-06 £ million
Strategic funding for renewal	850 (all PFI credits)	2,200 (including £1,200m PFI credits)
LEAs (allocated by formula)	650	700
Schools (devolved by formula)	440	800
Pupil places (likely to be formulaic from 2003)	480	700
Specific government priorities/Targeted funding/voluntary aided/ other	540	670
Total	2,960	5,070

(The numbers that make up the above totals are indicative and rounded; they depend in some cases on future decisions.)

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Reform to match investment

Government Goal

- A step change in the quality of school buildings for every secondary pupil to drive improvements in educational standards.
- Continued improvement in primary schools.

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Reform to match investment

Educational vision drives reform:

- schools and classrooms designed for the 21st century;
- flexible inclusive spaces, with integrated provision for ICT;
- needs of teachers and other staff fully met;
- fully suitable for the new 14-19 agenda;
- meeting needs of innovative school organisation.

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Reform to match investment

£2.2 billion in 2005-06 will buy:

Improvements to about 300 secondary schools in 15 groups of 20, with:

- all buildings new or renewed, safe, secure and inclusive;
- flexible and comfortable classrooms with full access to ICT;
- high-quality facilities for all staff;
- state-of-the-art laboratories, technology and other specialist spaces, including sports;
- improved social, recreational and circulation areas.

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SCALA STUDY DAY Birmingham 16 May: Presentation by Peter Stanton-Ife ‘Balancing time, quality and cost’

Reform to match investment

Local plans will be invited which:

- are standards driven;
- have a strategic vision of high quality delivery of education;
- have local ownership – partnerships of authorities, governors, schools, the wider community, new and other education providers;
- focus on strategic clusters of schools.

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Reform to match investment

Prioritisation on basis of clear and objective criteria:

- contribution to raising educational standards;
- local deprivation and educational need;
- buildings need and urgency;
- capacity to deliver.

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Reform to match investment

Exemplar designs: 6 Primary, 6 Secondary

- ‘Schools for the Future’ aspirations for design and educational standards;
- for a range of locations, including restricted city sites;
- customised for local needs and priorities;
- promoting industry innovation and efficiency; and
- wide consultation to ensure highest quality and fitness for purpose.

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Reform to match investment

Procurement reform – aims:

- economies of scale and promoting innovation;
- better use of capacity;
- faster delivery;
- easing local procurement burdens.

Plans include:

- A balance of PFI and conventional funding;
- a national body to broker value-for-money proposals; with
- partnerships between DfES, local authorities, and P(UK).

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Reform to match investment

Consultation: we want to know:

- Are our proposals for reform right?
- How could they be improved?
- Are there other factors we should consider?

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Reform to match investment

Summary

We have a once-in-a-lifetime opportunity to renew schools and transform the standards of secondary education for the next generation.

We have three challenges:

- to get national consensus for the programme;
- to get local educational vision and strategies right;
- to get a national infrastructure to support local endeavour.

We want to work closely with you to do this.

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Guide to ACA Project Partnering Contracts PPC 2000 & SPC 2000 by David Mosey

New publication launched 12 June 2003



FOREWORD TO THE GUIDE BY

**ALAN CRANE CBE, CHAIR,
RETHINKING CONSTRUCTION**

"It is almost nine years since Sir Michael Latham in his Report "Constructing the Team" called for a new culture in the construction industry – partnering – and for a new family of contracts to facilitate this change. In 1998 Sir John Egan in "Rethinking Construction" made it clear that, while the industry must seriously address its processes, world-class performance would only be secured by establishing integrated teams – by partnering the supply team and chain.

While the industry's movers and shakers eagerly responded and adopted partnering arrangements based upon charters and bespoke contracts, it was only with the publication by the ACA of PPC2000 that the full response to Latham was put in place. When followed by SPC2000 the industry at last had a "new family of contracts" to equip it for the twenty first century.

Exemplified by the Rethinking Construction Demonstration Projects and including broad sectors of the industry, considerable progress has been and continues to be made in improving

performance based upon multi-party partnering arrangements. This is fast becoming the contractual method of choice for a growing number of intelligent clients.

None of the proponents of partnering have pretended it is an easy option, and as with all innovation, progress has been limited by lack of confidence and a ready source of "how to" information. This Guide now provides a manual that fills the gap.

This Guide to PPC2000 and SPC2000 is rooted firmly in practical feedback from many industry professionals working on real projects, based on more than three years of hard-won experience and rigorous analysis. It provides in a logical form the process of formulating an agreement and addresses the many issues that arise when using a partnering contract. Truly comprehensive and expressed in a readily understandable language, it is the final step to removing the barriers to effective partnering for all.

I am pleased to have been asked to write this foreword and even more pleased to support this Guide. It does not compromise but rather enhances the principles of "Rethinking Construction", and will help all of us to take forward partnering as the norm with the desired achievement of more successful projects."●

This guide, written by David Mosey of Trowers & Hamblins, is rooted firmly in practical feedback from many industry professionals working on real projects since PPC2000, the first ACA Standard form of contract for Project Partnering was published in September 2000. In a clear and logical form, this innovative Guide explains the process by which a Partnering Agreement is formulated and addresses the many issues that arise when partnering a project. It goes step by step through PPC2000, SPC2000 and includes sections on the Scottish Supplement PPC(S)2000, the Partnering Adviser, and 'Ten Common Pitfalls' on PPC2000 in use. A truly comprehensive Guide not only to PPC2000 and its specialist companion SPC2000, but also a guide to effective partnering for all.

Copies of the new Guide to PPC2000 and SPC2000 (ISBN: 1 901171 213) are £20 each (less 10% on orders over 10 copies, plus p&p + VAT on P&P at 8%). All contract documents published by ACA and any further information can be obtained through the contacts below or tel: 020 8325 1402.

STOP PRESS- COMING SOON

ACA Standard Form of Building Agreement 1982 Third Edition 1998 (2000 revision) and ACA Form of Sub-Contract 1982 Third Edition 1998 (2000 Revision) will both be re-published in September 2003. Tony Blackler of Macfarlanes and John Burkett of ACA have comprehensively updated and revised these concise and workable building agreements which were first published in 1982.



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Hays Montrose &



A partnership to promote best practice in temporary recruitment services



*Robert Smith,
Managing
Director of
Hays Montrose,
reports on the
findings from
the recent Hays
Montrose and
SCALA
salary survey*

*For further
details please
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Gelder directly
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or e-mail:
richard.
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REGIONAL PUBLIC SECTOR ARCHITECTS CLOSING IN ON PRIVATE SECTOR SALARIES

Public sector architects are closing the pay gap with their private sector counterparts in many regions, according to the Hays Montrose/SCALA salary survey. **Robert Smith**, Managing Director of Hays Montrose reports.

In the New Year edition of *SCALA News*, preliminary findings from the Hays Montrose/SCALA national salary survey showed the gap between public and private sector salaries is closing.

Hays Montrose has now completed a regional breakdown of these results, which reveal nominal regional salary differences for senior roles and larger regional differences between operational jobs.

For example, the typical salary for a group practitioner/manager ranges from £36,400 in North and Yorkshire, to £35,000 in South and South East. An assistant architect typically earns £24,500 in London and £18,000 in Scotland.

A comparison between these survey results and private sector salaries shows that the largest differentiation between the sectors based on location is in London, while the closest is in Scotland. For example, a public sector principal/senior architect typically earns £32,300 in London, compared to a private sector associate with RIBA/ARB who typically earns £40,000. A public sector architectural technologist typically earns £26,000 in London, while a private sector technologist with a HND and three years experience earns £25,000.

In Scotland, a public sector architect typically earns £26,000 while a private sector architect (with six years experience, RIBA/ARB) also typically earns £26,000. A public sector associate typically earns £31,000 while a private sector associate (RIBA/ARB) typically earns £35,000.

As the above comparison between public sector group practitioner/manager and private sector partner also shows, the largest differentiation in public and private sector salaries based on job level is at the managerial or partner level, while graduates receive similar salaries. For example, a public sector graduate/architect's assistant in London typically earns £21,000 in London while

a private sector architectural assistant part 1 in Central London typically earns £20,000.

Commenting on the results, Richard Gelder, Public Sector Director of Hays Montrose, said: 'This survey reveals the typical salaries and regional disparities are particularly striking for those at the upper levels of their professions working in Central London, while outside London public sector workers are getting closer to the top of the pay ladder.'

According to Richard, one reason for the modest difference in salaries is the levelling-out of private sector salaries. 'Following a slow-down in growth for private sector salaries in 2002, in 2003 there still appears to be uncertainty and salary rises are not as generous as previous years.'

However this survey does not include benefits, which on average are better in the public sector. 'There is greater awareness today of work-life balance, which is where local authorities generally score better in terms of lower working hours, better holidays, flexible working options and pensions,' says Richard. 'It's simply not the case any longer that an extra one or two thousand pounds is the main factor behind job offer acceptance. It's far more likely to be a non-direct benefit, such as holidays, that drives people. When you balance this with the fact that many higher profile design projects are now local government funded, you have to be careful how you interpret the importance of pure salary.'

Lisa Palmer, Manager at Hays Montrose, recently filled a vacancy for a council offering annual salary increases of at least 3%, a final salary pension, 24 days holidays per year, a working week of 37 hours, flexi-time opportunities, low interest loans and a relocation package.

Continuing the Hays Montrose/SCALA partnership, now in its second year, and following on from a best practice guide, this survey was compiled to provide useful information to SCALA members, to contrast private and public sector salaries and to identify any relationship between pay and recruitment.

To view the full results of this and other Hays Montrose salary surveys, visit www.hayspersonnel.com



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SCALA SALARY SURVEY 2003

NOTES:

- ◆ This salary survey data was collected from chief architects and other senior construction and property professionals through SCALA. Late survey replies that were not received in time for the last analysis were included in this analysis.
- ◆ These salary survey tables show the typical salary offered for each role and region, as well as the lowest and highest salary people can usually expect to receive.
- ◆ Salary survey figures were rounded up to the nearest £10.
- ◆ Data used for the comparison to private sector salaries was gained from the 2003 Hays Montrose/*Building* Consultant salary survey, available from www.hayspersonnel.com
- ◆ Hays Montrose is the leading supplier of staff to the public sector property, construction and housing disciplines in the UK. Working from over 65 offices nationwide, Hays Montrose currently works with over 450 local authority and other public sector clients.

	Group Practitioner / Manager			Project Manager			Principal / Senior Architect		
	Typical	Minimum	Maximum	Typical	Minimum	Maximum	Typical	Minimum	Maximum
London	36,250	34,500	37,500	36,000	33,500	38,000	32,300	29,000	33,850
South & South East	35,000	32,000	50,000	32,000	28,000	34,000	32,000	30,000	33,000
South West & Wales	35,250	33,250	38,250	27,500	24,000	29,000	28,125	26,000	29,500
Midlands & East Anglia	35,500	33,000	41,000	33,000	33,000	36,000	29,500	28,000	31,000
North & Yorkshire	36,400	32,700	36,400	28,000	29,000	31,000	30,600	29,400	31,600
Scotland	36,750	35,800	38,400	30,000	26,000	34,000	31,000	29,800	33,000
National average		35,860			31,080			30,590	

	Architect			Assistant Architect			Clerk of Works		
	Typical	Minimum	Maximum	Typical	Minimum	Maximum	Typical	Minimum	Maximum
London	29,500	23,300	31,000	24,500	18,000	26,500	24,300	20,000	25,000
South & South East	29,000	27,000	30,500	24,000	22,000	27,250	23,000	19,750	25,000
South West & Wales	26,000	25,000	27,000	23,000	22,000	24,250	20,000	20,250	22,000
Midlands & East Anglia	28,750	28,000	31,000	23,000	20,000	25,000	20,000	18,000	21,000
North & Yorkshire	25,100	23,400	27,300	23,000	20,500	24,300	19,375	16,600	22,000
Scotland	26,000	23,400	27,500	18,000	16,000	22,000	17,000	13,700	20,300
National average		27,390			22,580			20,610	

	Planning Supervisor			Architectural Technologist			Technician (CAD)		
	Typical	Minimum	Maximum	Typical	Minimum	Maximum	Typical	Minimum	Maximum
London	24,000	18,000	24,000	26,000	22,000	30,000	25,000	23,000	26,000
South & South East	23,000	20,000	25,000	25,500	22,500	27,000	23,000	21,000	24,000
South West & Wales	22,500	21,250	23,000	24,000	23,500	27,000	20,500	19,500	21,750
Midlands & East Anglia	24,000	21,000	24,000	25,000	23,000	27,000	21,500	18,000	23,000
North & Yorkshire	24,600	21,500	26,500	22,000	17,400	24,600	20,850	17,300	22,500
Scotland	23,000	21,000	25,400	20,000	18,300	23,000	17,500	13,700	20,300
National average		23,520			23,750			21,400	

	Landscape Architect			Interior Designer			Graduate / Arch. Assistant		
	Typical	Minimum	Maximum	Typical	Minimum	Maximum	Typical	Minimum	Maximum
London	26,000	20,000	30,000	27,000	25,000	32,000	21,000	20,000	26,000
South & South East	25,300	23,000	27,000	24,500	22,000	29,000	18,000	15,000	19,000
South West & Wales	23,000	21,000	25,000	20,000	18,000	25,000	18,000	17,000	19,000
Midlands & East Anglia	24,000	22,000	26,000	23,000	21,000	26,000	18,000	15,000	19,000
North & Yorkshire	23,000	21,000	25,200	22,000	20,000	27,000	18,000	16,000	21,500
Scotland	23,000	18,000	25,000	20,000	16,000	24,000	10,500	9,000	11,200
National average		24,050			22,750			17,250	

Hays Montrose

This survey was compiled in April 2003. For more details please contact Richard Gelder on 07785 377614 or e-mail: richard.gelder@hays-montrose.com



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SCALA DESIGN DEBATE & PRACTICE PROGRESS- combined meeting of the fora in Birmingham on 15 May 2003

**Mukund
Patel**

*SCALA Vice
President
and Chairman
of the
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1. APOLOGIES: Jeff Gibson.
2. MATTERS ARISING: MP explained that in view of the unavoidable absence of JG and the need to discuss proposed improvements to SCALAnews he and the President had decided to hold a joint meeting of the Design and Practice Fora.
3. SCALAnews: BW outlined the vital role of SCALAnews in the work of the society and the dual function it fulfils in serving members and promoting public sector architecture. With membership up 30% over 5 years, partnering agreements in place and income increasing in the 2002/03 budget from £39k to £61k, with support costs the same as in 1997, SCALA is succeeding in it's aims and objectives. Despite this there is room for improvement in the printing and presentation of SCALAnews which can be realised by increased sponsorship allowing greater circulation to sponsors nominees and the promotion of advertising to allay the cost. Current costs are about £2k an issue, excluding a £1k subsidy from HM. Lansdowne Publishing, publishers of the Yearbook, have quoted a production and distribution cost of £4k for each issue of a 32 page full colour newsletter on quality paper with a distribution of 2000 to 2500 copies 5x pa. Advertising revenue would be divided equally between SCALA and Lansdowne with income estimated at £800 page. AW presented examples of mock-ups of the cover and internal pages and spoke of a niche market which had been developed over the last 7 years with the Yearbook and the potential of expanding that with SCALAnews. He is convinced from his Yearbook experiences that good solid support exists among advertisers and is keen to proceed. Concern was expressed by members on the intrusive effect of advertising and it was agreed that this would be grouped in blocks to avoid disruption to the flow of articles. NB produced examples of cartoons which could be included at a cost of about £150 each. Support was expressed for the content of SCALAnews and the drive to improve quality which would result in additional recruitment and kudos at a strategic level. It was agreed that strict editorial control was needed to avoid going the way of other magazines and the need for a distinctive format and sensitive advertising.
4. SCALA YEARBOOK: MP reported on the improved layout and AW on the increased level of advertising. To be published in the Autumn.
5. CIPFA/SCALA JOINT CONSULTANCY: MP reported that JG was researching PI cover for those involved.
6. RESEARCH PROJECT: JM, formerly Borough Architect of Haringey, outlined the purpose of his research into local authority architects departments, particularly the number of architects employed. It was agreed to facilitate this research through the Design Forum and use SCALA's network of contacts to harvest data.
7. STUDY DAY: SD reported that there would be 78 attendees tomorrow, 4 or 5 more than last year, with 5 exhibitors and 6 firms distributing literature.
8. BUILDING OF THE YEAR AWARD: MP stated that two meetings of the panel have been held and 91 applications assessed of which over half met the award criteria. A wide variety and type have been submitted and 9 have been shortlisted to visit. Agreed that the award be presented at the SCALA 2003 Presidential dinner.
9. BETTER PUBLIC LIBRARIES: MP requested comments on the CABE drafts already circulated.
10. SCALA 2003: CABE have agreed to support the publicity for the event as they did last year. 2 possible speakers suggested- Ken Walpole (author of Better public Libraries) and Councillor Mike Henry of Gateshead MBC.
12. DATE OF NEXT MEETINGS: Friday 11 July at 11.15hrs. at either Queen Anne's Gate for the Practice Forum or Tothill St. for the Design Forum. Future meetings to be held on 3 October and 5 December at the same locations●



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SCALA response to the DfES consultation document BUILDING SCHOOLS FOR THE FUTURE

Jeff Gibson

Chairman of the Practice Forum

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or e-mail:
Jeffereyr.
gibson@aol.com*

Question 1 – Do you agree with the case for a new approach to managing the extra capital investment that will be available in 2005–06?

Yes. Hitherto, capital funding (excepting PFI) has been directed at, and utilised for improvements to, rather than renewal of, the existing estate. Whilst funding has increased year on year, the approach, given the background of the existing portfolio (many outdated buildings and substantial maintenance backlogs), and the essentially traditional procurement methods utilised by LEA's and schools (whereby projects are considered and delivered on an ad-hoc and individual basis), improvements to premises (and thus their contribution to increased educational attainment) has only been incremental.

The availability of this substantial additional funding, with associated new and radical mechanisms for prioritisation, design and delivery, affords an enormous opportunity for step-change in the quality of the national teaching environment.

Question 1a – What other issues do you think we should take into account?

Whilst the commitment to increasing standards is evident in these greatly increased funding levels, and is to be welcomed, there are practical issues to be addressed, including:

a) Timing.

This funding comes on stream in 05/06, but with exemplar designs not being made available until November 03, and no date for formal bid approvals identified (at least not within these proposals), the time to develop finite "20 x £150m group" packages for April 05 is limited. It is a concern that as all aspects of the new procurement process attendant upon this funding are new (strategic multi-organisational planning, procurement vehicle, off-site construction, etc.), this time is insufficient to ensure that the necessary processes and procedures are in place and sufficiently bedded-in to guarantee efficient effective, high quality, and above all successful delivery. Demonstrable success must be evident from the outset.

The proposals make no reference to funding lev-

els beyond 05/06 (bar reference to a 10 year renewal programme). In the same way that the spread of existing capital allocations are identified over a number of years, thus helping forward planning, some notional advice of the forward profile would put the initial £2bn. Into context, in terms of determining forward workload and roll-over implications.

Further, applicants ought to know in which year their bids may come forward. Knowledge of funding for a 'local grouping' coming on stream at any time in the (relatively) near future could significantly impact on works already 'in the system', funded (at the moment) from existing sources. Without this forward knowledge, there is a risk of monies being unnecessarily spent on premises that might later be replaced.

b) Capacity.

The proposals refer to a construction industry acknowledged as already stretched in dealing with the existing programme. As the £5.1bn. will be buying proportionately more bricks and mortar (more efficient procurement), should (has?) DfES considered working with other agencies (DWP, LSC, etc) to address the increased demand for construction skills that this enhanced programme will generate?

Question 2 – Do you agree that we should aim to collaborate better with other funding and decision-making bodies to help achieve wider policy goals?

Yes. To better integrate schools into the community, to make greater use of the facilities they provide, to offer a wider range of opportunities and services can only be achieved by closer, more integrated working between the relevant organisations, at both a national and local level. To include other stakeholders promotes ownership, diversity and innovation (i.e. better solutions) and at a practical level, significant economies of scale can accrue.

Question 2a – How might this best be achieved?

A fundamental requirement is to ensure that funding and decision-making bodies are, at the highest level, aware of and supportive of each



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others aims and objectives, and are amenable to a multi-agency approach (e.g. the ODPM's recent call for PFI bids for joint service delivery appeared to be largely unaware of the concurrent LIFT initiative, which seeks to achieve much the same objectives).

Criteria for funding should be reviewed to ensure that joint funding/joint working is facilitated and encouraged (demonstrable collaboration = higher grants?).

At a local level, demonstration of effective and positive collaboration (with associated identified outcomes) could be a fifth criterion within the prioritisation process.

Question 3 - Do you agree that we should target secondary renewal funding on geographical areas, covering local natural groupings of schools, even where these would cross local authority boundaries?

Yes. Community perceptions of and relationships to schools are largely governed by local geography, and individual school reputation rather than by which LA they are situated within. Thus, the concept of 'local grouping' is wholly appropriate, as a means of developing and reinforcing local identity, responsibility and ownership.

A cross-boundary approach may also facilitate issues relating to population drift, availability of appropriate/better land and/or building assets, provision of specialist facilities, and travel etc.. However, assessment criteria will need to demonstrate, by weighting and application, that differences in, say, asset condition and management are balanced, such that the parties can be assured of equitable treatment (there must be no losers). Without this, successful cross-boundary working will be problematical. Much greater detail is needed regarding the prioritisation criteria, and their application.

Question 3a - What special arrangements would we need to consider for London and how might these best work?

The geographical and cross-boundary issues are much more immediate within London, so the flexibility exhibited in a cross-boundary approach generally would need to be exercised to a greater degree within London.

Assuming that development and application of a robust strategic plan results in the identified need for a new school on a new site, acquisition of any such site may be problematic (either physically or economically), possibly more so in London than elsewhere. There may thus be a case for consideration of DfES additional support

and/or intervention in such instances, to facilitate delivery.

Reference to and acknowledgement of the London Commissioner is appropriate here - it represents a known and already established entity which could usefully and positively act as a focus for expertise, advice and guidance, with the benefit of a wide and impartial overview of the London boroughs.

Question 4 - Do you agree that we should develop exemplar designs as a starting point to ensure consistently high standards for all new schools?

As exemplar designs have already been commissioned, it would be useful to know exactly how they are intended to be used.

If they are presented as examples of best design practice, as demonstrations of what can be achieved, then they will be of great value and use.

However, it is unclear as to whether they are being developed for essentially mandatory uptake (with possible influence on bid selection?), with only limited "customising" options available. If this were so, it would be highly regrettable, in that local input (not to say expertise and innovation) would be necessarily reduced to a very low, and possibly superficial level.

Further, the combination of (possibly) limited design options, together with reference to "streamlined processes using off-site construction techniques" does echo previous system-building techniques, which over time have not delivered the best in terms of maintenance liabilities or overall life - to go there again would indeed be to re-invent the wheel. Again, it is questionable whether (if indeed a system-build approach is envisaged) the industry is able to develop and deliver suitably robust solutions by 2005.

Question 4a - How might these best be used in practice to avoid 're-inventing the wheel'?

One of the main tenets of the proposals is participation and ownership at a local level. If (in terms of developing individual school buildings) this means 'customising' a fundamentally sacrosanct 'standard' solution, participation and ownership levels are likely to be far lower than input at a much more fundamental level. It is unlikely that any standard solution would properly reflect the spacial or organisational (if not aesthetic) needs of other participating organisations, and there could be no guarantee of the right solution being presented for any particular situation.



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The SCALA response, as well as those from Bucks & Essex CC's, can be downloaded from the Discussion Forum on our website at www.scala.org.uk.

If however exemplar designs are configured as empirical solutions, epitomising what works best, perhaps as a design guide or toolkit, to be disseminated and applied with imagination and enthusiasm at a local level, reflective of the local environment and its particular needs, satisfaction (and thus performance), commitment and ownership would be enhanced. Case studies within the proposals exemplify this - emphasis is placed on the outcomes and benefits (which are after all the ultimate purpose of any built solution), leaving the observer to identify, interpret and apply those elements relevant to his/her situation.

Question 5 - do you agree that a dedicated national body could help support local plans?

Yes. The potential is there, certainly in terms of identifying, developing, disseminating and applying best procurement practice, and in taking an overview of the whole programme (i.e. what works, what doesn't, where and why).

Adopting a central procurement role will carry a high responsibility for successful performance (eggs in one basket), whereas "supporting local procurements" would share and reduce the risk (of poor/non performance), would potentially tap a wider pool of expertise and experience, would

enhance local ownership and support local economies.

Question 5a - What views do you have on its composition and role?

The composition of such a body would obviously include the main players, e.g. DfES, L.A.'s, programme manager, together with representation from those organisations involved in current procurement best practice, e.g. 4P's, Rethinking Construction (LGTF, M4I, etc).

Good communication and feedback arrangements should be established with both the contracting side of the industry, and at local level with end-users.

In terms of role, the proposals set this out well, the main issue for determination being that alluded to above, i.e. central procurement vs local. To maximise its contribution, any such body must seek to work in partnership with those others involved, alongside rather than above, to use accumulated expertise and experience to ensure maximum outcomes are achieved from this opportunity, and to deliver the win-win - at the end of the day the whole purpose, to which all are working, is to improve educational attainment and standards, and the extra £2bn. is a means to this end●



SCALA
DIARY

JULY

- 8 FPS/LGTF Seminar in Birmingham 'Rethinking Contracts' (contact Alan Tyler Tel: 01438 718954)
- 11 SCALA Design Forum meeting at DfES, Conf. Room 1, Caxton House, 6-11 Tothill St., London
SCALA Policy Committee
SCALA Practice Forum
SCALA Council all at IPF Ltd. 27 Queen Anne's Gate, London.
- 15 ACA Seminar in London 'Sustainable Design: a Client's View' (contact ACA Tel: 020 8325 1402)
- 25 S&SE Region meeting at Worthing (contact Vic Swanwick Tel: 01903 239999)

SEPTEMBER

- 10 Y&H Region meeting (contact Steve George Tel: 01482 612481)
- 19 S&SE Region meeting at Southampton (contact John Bean Tel: 023 8083 2404)
- 25 NW Region meeting in Salford (contact David Mycock Tel: 0161 911 4130)
- 26 Eastern Region meeting at Norwich (contact George Roberts Tel: 01603 223447)

OCTOBER

- 3 SCALA meetings in London as 11 July
- 17 SCALA 2003 in Newcastle (see back pages and enclosed leaflet for more details)

For information on the CIPFA/SCALA Best Value & Quality Forum workshops for Construction & Property Services please see the CIPFA homepage.

AMP network regional workshops on- October 13, 23 & 30 London, 20 Warwick, 21 Nottingham, 22 Bury, 27 Durham, 31 Bury St. Edmunds, November 3 Exeter and 6 Llandrindod Wells (for further information contact David Bentley on 01543 262 030)

CIPFA/SCALA 32nd. Series of BV&QF workshops on Construction & Property Services comes to you on- September 17 Durham, 18 Burton on Trent, 22 Preston, 23 Builth Wells, 23 & 24 Scotland, 24 Taunton and 30 London.

IPF Human Resources & E-Government networks '21st. Century Offices- Building the Business Case'- July 7 Builth Wells, 8 Preston, 9 Durham, 10 Burton on Trent and 14 & 18 London (for further information contact Chris Brain on 01275 878378)



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This is a new service for readers of SCALAnews which will allow you to seek advice and guidance on those awkward and time consuming contractual and legal issues which are such a feature of the industry. Rob Tate, author of the SCALA and LGTF 'Guide to Standard Forms of Construction Contract', has kindly offered to share his experience and expertise with you and looks forward to hearing from readers.



*Rob
Tate*

Playing the contract game by the rules

Rob Tate is an architect, a Past President of SCALA and a former Head of Property Services at the London Borough of Enfield. He is a construction consultant, expert witness and a member of the President's Panel of Adjudicators of both the RICS and Chartered Institute of Arbitrators

In the last issue I referred to the need to ensure one plays by the rules, or rather complies with the terms of the Contract. When it comes to contract administration, and therefore potentially to disputes, compliance with procedures and time-scales is particularly important. If you don't know the rule book off by heart, best keep it handy – even if it is in the draw, where some say contracts should be kept!

Our rule book is principally in three volumes. The first is, of course, the Contract. The second is the *Housing Grants Construction and Regeneration Act 1996* (HGCRA). The third is *The Scheme for Construction Contracts (England and Wales) Regulations 1998* (the Scheme), which is brought into play by the HGCRA when the Contract is silent on certain matters required by the HGCRA. However, there are some other rules lurking in the background.....

The HGCRA is implied into all commercial construction contracts (they are defined and don't include domestic) by statute. The most familiar contract terms are those written into the form of contract – “express” terms. However, contracts also contain terms that are not written into the contract document, but are implied by a number of different means – without you having a say in the matter (except in court)! Its useful to be aware of these, so here's a short synopsis:

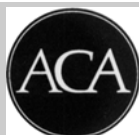
- **Terms implied by the courts** – where the Contract does not deal with a matter expressly, but a term is said to be intended by the Parties, or where the Contract does not expressly deal with the matter, but it creates a relationship in which such a term is usually implied. The former is discovered by looking at the words of the agreement and their surrounding circumstances.

- **Terms implied by custom or usage** of a particular trade or business, market or locality – the custom must be invariable and certain.
- **Terms implied by statute** – these are terms required to be included in certain contracts and when they are not expressly written into the Contract the terms set out in the relevant Act apply. The Acts most commonly applicable to construction contracts are *The Sale of Goods Act*, *The Supply of Goods and Services Act* and the *HGCRA*.

Hence knowing a project's specific Contract is not enough. The first two “bullets” above are encountered less than the third. However, I am currently acting as Adjudicator in a dispute where “assurances” have been referred to a number of times, along the lines of “we know what we meant/was intended”, so maybe a “Legal Beagle” on the construction of contracts generally may be relevant in a future issue – readers may recall from the last issue my reference to *Yarm Road* and *Blyth & Blyth*, concerning when a novation agreement came into force. But today lets look at the rules implied by statute.

The origins of HGCRA lie in Latham and *Constructing the Team*. He saw procedures as an important means of improving the industry, through promoting fairness and teamwork and, all important, improving cash flow. The recommendations of *Constructing the Team* were developed in the HGCRA, which provides that:

- A party shall be entitled to stage payments, unless the duration of the work is or is expressed to be less than 45 days;
- The Contract shall provide an adequate mechanism for determining what payments become due, when and the final date for



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payment;

- The right to withhold payment is restricted to those circumstances where an “effective notice” is given;
- There shall be a right to suspend performance for non-payment;
- “Pay when paid” provisions, except those linked to insolvency, are prohibited;
- A party shall have the right to refer disputes to adjudication, with key procedural requirements stipulated in the Act.

(Cont.)

Where such provisions aren't included in the express terms of the Contract, the procedures set out in the Scheme are implied into the Contract and must be followed.

This amounts to a good practice formula, whose job management procedures are statutory. Contract as a manual, not just for reference when we fall out.

Whilst all standard forms of contract are compliant, the Scheme applies more often than you may think. Those new partnering provisions or other amendments to the standard form, do they comply with HGCRA? Which payment terms and timescales apply – those expressed in your Contract, or those of the Scheme in whole or in part?

Some of the most important provisions introduced by the HGCRA are those seeking to regulate the right to withhold payment, which impact on the law of set-off. The law of set off is generally considered both complex and unsatisfactory, but the HGCRA helped in the construction industry by stipulating procedures.

We all know that cause for complaint over performance is common in building contracts! The most logical remedy is to deduct, from payments otherwise due, a sum of money corresponding to the value attributed to the subject matter of the complaint – to “set-off”. Issues for the law of set-off, for example, have included (obviously!) whether a claim for set-off is justified and how it is valued, and whether, despite damage having been proved, set-off for that damage is available under the contract in question. Set-off may be exercised, for example, to recover damages suffered through delays, or for the costs of paying others to make good contractors defective work. More controversially, it could be sought in respect of damages suffered on other contracts between the same parties – but the opportunity to do so is very restricted, as French found in *Anglian Building Products Ltd-v-W&C French (Construction) Ltd* (1972).

A party wishing to withhold payment by set-off must establish that the basis for withholding is

not prohibited by the Contract and is one of the three recognised categories of set-off – “Legal Set-off”, “Equitable Set-off”, and set-off in relation to insolvency. In order to regulate the use of set-off, the HGCRA, therefore, stipulates that an effective notice must be given before withholding. That notice must specify the amount proposed to be withheld and the grounds for withholding payment, or if there is more than one ground, each ground and the amount attributable to it. It also stipulates when that notice must be given.

Then there is “abatement”! A valuation is abated when it is reduced to reflect the value of work properly completed – the only work an employer is generally obliged to pay for. The reduced amount is, therefore, the payment due. It is, therefore, different from set-off, which is a deduction from payments due. Abatement, therefore, requires no notice under the HGCRA.

Now, this may all sound very like QS territory but here's the rub, if you don't comply with these requirements and issue a valid notice on time it doesn't matter how just your set-off case may be it won't withstand a challenge. Furthermore, issuing a notice once and then relying on it to withhold monies in a series of subsequent valuations won't do, you must issue a notice each time you withhold. Issuing of notices and certificates is the realm of architects/contract administrators!

HGCRA came into force in 1998, so I trust the above isn't news! However, it bears repeating on the evidence of the number of adjudications which centre on these issues. The issue of abatement/set-off also causes a lot of difficulty for adjudicators – particularly where parties who have not issued a withholding notice seek to set-off via a counterclaim in an adjudication. Best not get into that – don't keep the Contract in the draw and, when you think you have a case to withhold money, ensure you comply with the rules. That way you probably won't have to trouble an adjudicator! Oh, and remember the rules aren't just set out in the Contract, there are at least two other volumes! Oh, and remember the timescales!●

Rob Tate and the Editor invite you to submit questions and also make comments on the topics and views expressed. If you wish to put a confidential point or question to Rob please e-mail him at rob.tate@ntlworld.com.



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Annie Atkins

CBE
Regional
Co-ordinator

SHIFTING SANDS - DESIGN AND THE CHANGING IMAGE OF ENGLISH SEASIDE TOWNS

Fish and chips, the sound of the waves, walking along the prom, beach huts and b&bs. These are all factors that traditionally make up the English view of our seascides. The activities may change gradually over time but what about the backdrop against which they take place? What about the people that live and work in these towns all year round, where do they go to school, where do they shop, do they have decent libraries and are their public spaces safe and clean places to meet throughout the year not just during the income earning summer months?

We've got our past glories: Blackpool Tower, Brighton Pavilion and Southend Pier but what are we building now for future generations? Are we designing the right kind of spaces for a century hence, are our seaside places attractive places to live work and play and what are we doing to maintain and cherish the mass of other buildings and places that make up our seafronts? When the Prince Regent laid out the gardens before his Pavilion the lawnmower had yet to be invented. The fun-seeking soul that he was, he might be gratified to know that many years on those same gardens provide a popular year round facility for the enjoyment of young and old alike.

Shifting Sands is a joint initiative by the Commission for Architecture and the Built Environment (CBE) and English Heritage, pitched as the non-identical twin to the successful 'Building in Context' publication. Tim Mason was appointed by the steering group, made up of the partners with contributions from the, then, English Tourism Council, to undertake research into the role of design in English Seaside towns. His task took him during the winter months of 2002 to destinations as diverse as Folke-

stone in Kent and Jaywick Sands in Essex.

Folkestone's recent history demonstrates the importance of public and private partners working together on a raft of initiatives to make the town a better place to work, live and visit. It will seldom be the case that a single new development will trigger sustainable regeneration. Well designed facilities need to be supported by transport infrastructure, effective maintenance regimes and a longer term vision to support jobs and services. Nevertheless Folkestone has hosted a number of successful initiatives that are aiming to capitalise on its location and culture.

At one end of the scale Tony Pye, the owner of two harbour side seafood stalls, held a competition with the help of the Kent Architecture Centre, for new facilities. The competition was won by Norfolk based Bond Architects for a single contemporary stall, known as Chummy's, that reflects the wider changes led by Kent County Council and Shepway District Council to regenerate the area. Within the £45,000 budget the high quality and imaginative solution incorporates traditional and contemporary materials using ship like references to enhance the south western side of the harbour, looking onto the newly designed pedestrian area. As a result of this initiative other local businesses have set about improving their premises and as part of the £1.5million programme of harbour side regeneration the County Council has reported a notable increase in the use of the new civic space and local economic activity.

On a larger scale the Saga Group has been a Folkestone Company since its inception. In 1996 they commissioned a £22 million headquarters from Michael Hopkins and Partners. Set in 15 hectares of parkland above the small village of Sandgate, just west of Folkestone, the choice of site had been a controversial one and construction required considerable consultation with the local community and planning authorities. Opened in 1998 the building houses some 750 employees and the facilities provided by an associated Pavilion have become an important and popular venue for local community events.



Chummy's at Folkestone



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Jaywick Sands
in Essex

J a y w i c k Sands in Essex overlooks an attractive stretch of sandy beach and is made up of a highly idiosyncratic collection of large beach

huts squeezed onto a plotland estate created in 1929 by the developer Jack Stigman. His enthusiasm for motor racing ensured that the appropriately named Brooklands Estate was modelled on the design of a Bently radiator grille and the names of the roads were named after popular makes of car, Riley, Talbot and Morris. The community became a more permanent one after the war but the lack of the most rudimentary facilities and a series of devastating floods led to the involvement of the Guinness Trust in 1997 as part of a regeneration programme involving Tendring District Council and the local community. Pollard Thomas & Edwards were appointed to respond to the brief for 40 new family homes on Lotus Way, part of the estate, to include two to three bedroom houses and two bedroom bunga-

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lows for the elderly and people with disabilities. The cedar clad houses reflect the extensive use of timber in many of the original estate properties. Facing south towards the sea the design took careful account of the prevailing weather conditions and the maritime location to minimise external maintenance and make use of passive solar gain and shading. A wetland habitat was created to deal with storm water and natural species found on the site were relocated. Overall the contract value was £2.5million. Lotus Way has won a RIBA Housing Design Award and a Civic Trust Rural Housing Award●

The full 'Shifting Sands' research is due for publication on 15 July and copies will be available free of charge from English Heritage, Customer Services Department, PO Box 569, Swindon, Wiltshire, SN2 2YP T: 0870 333 1181 F: 01793 414 926. Publication will be followed by a series of regional events taking place until the end of 2003 in Newquay, Morecombe, Cleethorpes, Great Yarmouth and Bournemouth. Details of the events will be available on the CABE website www.cabe.org.uk or by e-mail to cschnabl@cabe.org.uk. For further information on the general initiative please contact Annie Atkins, CABE Regional Co-ordinator on T: 020 7960 2405 E: aatkins@cabe.org.uk.

SCALANET- a list of useful websites for readers



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*Will
Werry*

*Chair of the
Commissioning
Joint Committee
and Principal
Consultant to the
IPF Best Value
& Quality Forum*

Conditions of service, competition & the EC

My story begins in 1977, with the Acquired Rights Directive. And what a strange story it is. No wonder successive UK governments have been so coy talking about it, like weapons of mass destruction.

It took them four years to implement the directive into UK domestic law, and even then they chose to call the Treasury Regulations in question the Transfer of Undertakings (Protection of Employment) Regulations, hence TUPE, rather than ARD. But governments still found it 'ard, even to define their own preferred words 'transfer of undertakings'.

For some years UK governments didn't accept even that transfer of undertakings included transfers of work as a result of contracting out. And at first neither, I have to admit, did I. This seemed to me to be contrary to common sense. But we were all wrong, and the European courts regularly accepted work subject to competition as constituting transferable undertakings.

WHAT IS A TRANSFER ?

Predictably, UK contractors were horrified. The Thatcher government at first compromised, and accepted that the work was an undertaking, but refused to accept that it transferred; or not unless the successful contractor thought it did. This message was conveyed to us by the memorably convoluted guidance issued in 1992 to the whole of the public sector, by William Waldergrave, then Minister for the Civil Service.

Although most of us in local government accepted this guidance, it never figured in DOE statutory guidance. This was itself interesting – inexplicable omissions from statutory guidance sometimes indicate that government lawyers consider a point to be a bit too dodgy.

Jack Dromey of the TGWU broke the logjam for us by negotiating a Code of Practice for TUPE Transfers with the Ministry of Defence, in 1998; that is within a few months of the election of the Blair government. The Code asserted that undertakings do indeed normally transfer as a result of competition; and it was soon translated into the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector. And there the meaning of transfer still stands, which is OK by me, because I think Jack Dromey and the Ministry of Defence got the law pretty well right.

It is nevertheless surprising that we have heard

nothing more from the government about the applicability of TUPE, because the ARD was amended in 1998. We should by now have had the amending Treasury Regulations. The main snag is no doubt that the ARD applies to private sector contracts too. You can just imagine the arguments, I am sure. But don't watch this space, or not yet.

WHAT IS DISMISSAL ?

Time now to look at pensions. They were specifically excluded from the ARD – in other words, transferred staff kept all their other conditions of service, except pensions. But, curiously, William Waldergrave's statement in 1992, although so reticent about TUPE itself, went out of its way to say that pension rights were after all protected – not by TUPE, but by UK employment law. The statement said that this had the effect that employees who were not offered 'broadly comparable pensions' could refuse transfer, and that, if dismissed, this would constitute unfair dismissal. I did not quite follow the argument myself, but we all went along with it.

Since then, the amended ARD in 1998 contained a specific option for member states to extend acquired rights to pensions, if their governments wanted to. Although the UK government clearly believes that this is the right thing to do, they haven't yet exercised this option, let alone implemented it into UK law. But this is no longer urgent, because everybody in the UK public sector seems to agree that pensions rights are protected anyway.

Pensions rights are of course 'conditions of service'. How right, I cry, being myself the fortunate recipient of a broadly comparable pension. But all conditions of service were 'non commercial considerations' until the amendment of the Local Government Act of 1988 in 2001. This removed any lingering doubt about whether local authorities could decline the tenders of tenderers who do not undertake to give transferees the necessary pensions rights. And contractors for their part are free to apply for admission to the Local Government Pension scheme.

The question now is not what local authorities have power to do, but what they have to do. They will however have to require contractors to offer pensions rights if and when the government exercises its option under the ARD; or if



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the next Local Government Act requires it, which ODPM Circular 3 of 2003 says it will.

Although broadly comparable pensions are now accepted as a natural right for transferees, will the outlawing of the two-tier workforce be equally well accepted? This was negotiated by Jack Dromey and John Edmunds with Stephen Byers two years ago, in the heat of a Labour Party conference.

WHO ARE JOINERS ?

And we now know what it means, because we now have the government's Code of Practice on Workforce Matters. It means in effect the extension of TUPE rights (including pensions) to contractors' joiners. That is to say, to new recruits who contractors take on to work on TUPE contracts; and to any successor contracts; and to TUPE contractors' subcontractors.

It is not 100% watertight because it does not extend to staff who contractors move sideways onto TUPE contracts. But no doubt that gap can be closed if it is abused; and local authorities now have power to close it for themselves, in their contract conditions, if they choose to.

Will they all want to, I ask myself? At least one authority has said that it does not intend to enforce the government's new Code of Practice. Compliance with this Code will often slash any saving from contracting out. Consider for example the obvious savings (to the contractor and the client, not to Great Britain plc) from switching key-bashing and call centres to the third world. The Code would require main contractors to enforce compliance by subcontractors – in this case

to enforce comparable pensions for third world workers.

The ARD says nothing about joiners. Only the Local Government Act can make it compulsory for English and Welsh local authorities to give them equivalent rights. No wonder meanwhile that the Workforce code took so long to go through the mill. It finally got through Downing street on the day before the first House of Commons debate on the war.

Not for the first time, and now with outlawing the two-tier workforce, Scotland got there first. As I expect you have noticed, Scotland and Wales no longer have to wait for their counterparts in Whitehall to untwist their knickers.

WHAT ARE PPPS ?

The new Scottish arrangements preclude the two-tier workforce only for public-private partnerships. What on earth are they, you rightly cry. They can of course mean whatever anybody wants them to mean. In NHS legislation for example they mean companies set up by the Department of Health. But in the present case they mean any Scottish contracts which, like PFI contracts, attract government subsidy on the notional loan charges included.

This slightly narrows the area in which the two-tier workforce will be outlawed. But it does take care of enforcement, because the Scottish Executive's guidance has the force of grant conditions. No compliance, no subsidy.

So, will they be able to nail it down as well as this, south of the border? ●

E-mail: willwerry@btinternet.com



The homepage for the Association of Chief Architects of Scottish Local Authorities

ACASLA ACCOUNT

PROGRESS ON LINKS WITH SCALA

As reported in the last edition the proposals to create SCALA Scotland were approved and the Executive are in the final stages of corresponding with members. SCALA can anticipate not a take over, but the faint skirl of pipes in the background, the swish of the kilt and the aroma of whisky to become a more common experience in the corridors of the society.



I note that SCALA 2003 is in Newcastle this year – The Urban Vision Thingy (catchy title) – and I am sure that ACASLA members would wish to participate. I also confirm that we discussed the potential of the Annual SCALA conference being held in Edinburgh in 2004, which would coincide with the opening of the Scottish Parliament building and perhaps permit a debate on issues surrounding government buildings, their design, procurement, and ethics●

Donald Murdoch
ACASLA President
Tel: 01244 522161
E-mail: donaldm@property.aberdeen.net.

We all look forward to working more closely with our colleagues in Scotland. Even more so after the success of Donald's whisky tasting at SCALA 2002 last year!– Ed.



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DOUSING THE FLAMES: with the cost of school fires reaching record levels Zurich Municipal investigate the effect school building & design can have on arson prevention and minimising fire damage

Mark Barry

Senior Fire Engineer

Zurich Municipal

The cost of school arson has escalated to reach record figures of £96.6 million last year, and the problem continues to grow. The tremendous loss caused by a school fire has already been apparent to many teachers, pupils and parents at schools in the UK this year. But, the financial loss to the local council is only part of the cost – the educational and emotional costs to the entire community can be immense.

More than three quarters of school fires are started deliberately and most are actually started by pupils or ex-pupils of the school. These fire setters will know the school site intimately and have often not thought through the consequences of their “game”. Schools often lack security or are on isolated sites, so fencing and security lighting can prove to be successful in making access to schools harder for would be fire setters or less attractive for casual intruders. Although many deliberately started fires are opportunist attacks, and are not necessarily intended to cause massive damage, it is the design

school construction and design now have the opportunity to limit the damage caused by fire. Unprecedented levels of Government funding and investment, particularly through the Public Finance Initiative (PFI), have led to the expansion of school redevelopment and building. The increased activity provides the perfect opportunity to reassess the way in which schools are built and protected from fire damage.

Many schools designed in the late 1950s and 1960s were Consortia buildings, which allow fire to spread quickly. Design features flaws such as ceiling and wall voids, without cavity barriers allow fires to engulf an entire building. Although building design has moved on greatly, the high occurrence of arson attacks in schools must still be taken into account during the design and building of schools. Fire breaks in corridors as well as breaks in wall and roof voids have proved to be effective in minimising the spread of fire. However it should be remembered that even modern constructional measures will not prevent the devastating effects of a fire from occurring, at best they can only limit the extent of what would otherwise be a very severe incident.

Sometimes, relatively simple measures can have a positive impact, for example the provision of secure bin areas has proved to be effective in arson prevention as disposal bins provide fuel for fires, and can then be pushed against windows, doors or under overhanging eaves.

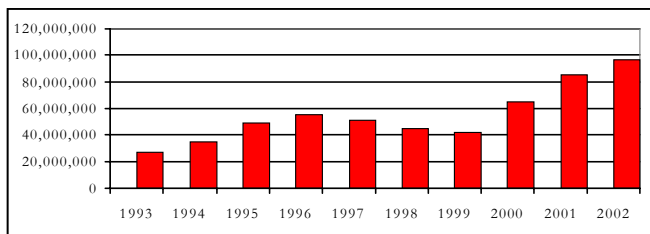
Worryingly the number of school arson attacks which happen during the day has now begun to increase. The reasons for this increase are unknown but it has created an even greater need for swift fire prevention action as lives could be put in danger if this trend continues unchecked.

The single most effective measure that can be taken to safeguard schools against extensive fire damage is the installation of sprinklers. Many local authorities and fire brigades have recognised that

COSTS OF LOSS/ DAMAGE IN SCHOOLS

National Costs - Fire Losses

1993 - 2002



of the school which can often allow the fire to cause extensive damage.

However, this is not an insurmountable problem. Those involved in



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sprinkler systems in schools are fundamental to school safety. For example, schools in Leeds are having sprinklers installed as part of a major PFI funded reconstruction programme across the city.

Losses from fires in buildings protected by sprinklers are estimated to be only one tenth of those in unprotected buildings. They are already proving their value in a number of schools – damage was minimised during a recent fire at St Mary’s School in Moss Side, Manchester, due to insistence by the new head teacher and a far-sighted LEA that sprinklers be installed. The cost of a sprinkler system is about 1.8% of the cost of a new building, and most cost effectively installed at the design stage of a building. In many cases this cost can be recouped in as little as seven years from savings on insurance premiums alone. However, it is also possible to install sprinklers as part of a major refurbishment, or even as a stand alone improvement. If they prevent just one major fire, the cost of the system will be more than covered by the cost of the damage that has been avoided.

Zurich Municipal, the leading insurers of schools in the Britain, and the British Automatic Sprinkler Association (BASA) have developed a Code of Practice to provide guidance as the installation of sprinklers in schools become more common. Specific fitting and installation requirements must be met and the Code of Practice has been developed to ensure that all the relevant safety requirements are adhered to and that the once the sprinklers are installed they are effective and cost efficient.

As well as setting out specific requirements the

Code of Practice is designed to be used along side BS 5306: Part Two, Technical Bulletins published as the *Sprinkler Rules* as well as the new European sprinkler standard, EN 12845. It covers every aspect of sprinkler installation. This means that the Code includes information such as a glossary of sprinkler terms as well as guidance on specifying and contracting system installation. For example, the Code provides details of the exact design criteria of the sprinkler heads including the requirements in terms of the hydraulic calculation required, frost protection as well as outlining the various technical standards which must be complied with.

The guidance also provides information on water supplies and general maintenance to ensure that sprinklers continue to operate effectively. In the past, such information would have been issued as part of the Loss Prevention Council’s *Sprinkler Rules*, or as part of guidance for school building *BS 5306*. However with the specific requirements of schools and the rapid increase in the number of fires, a specially tailored set of guidance has been required.

This Code of Practice is the first step towards ensuring that all schools in the UK are fitted with sprinklers as standard. When redeveloping schools or building new ones, safety should be at least as high a priority as making schools efficient, enjoyable and inviting places for pupils to develop.

A copy of the Code of Practice can be downloaded from the BASA website www.basa.co.uk and will be available as a publication shortly from the Fire Protection Association, Bastille Court, 2 Paris Garden, London, SE1 8ND●



Photograph showing the devastating effects of a fire at a school

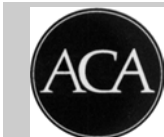


ABOUT MARK BARRY

BSc(Hons) MIFireE Dip Fire Eng ASFPE
Senior Fire Engineer

Mark joined Zurich Municipal eight years ago. He started his insurance career 18 years ago as a management trainee for Commercial Union. His path following in the footsteps of his father, who was a fire officer, and his father-in-law, who worked in insurance.

As well as his role as Zurich Municipal’s Senior Fire Safety Engineer, Mark is a visiting lecturer in Fire Safety Management at Leeds Metropolitan University, a member of the DFES Schools Exemplar Design Working Group and a member of the Sprinkler Engineers Society.



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Building solutions to school arson

David Mackness

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INTRODUCTION

The escalating impact of, and losses associated with, school arson has pushed many insurers out of the market. Zurich Municipal is still standing, by adopting a more pragmatic approach and working with the community and other players in the field. Steps to slow down these spiralling costs are being investigated.

Zurich Municipal has identified a period and type of school building for particular attention. Those built of a 'system' up to approximately 1975. The feature of special interest being the positioning of cavity barriers within roof and floor voids. It is worth noting that approximately one quarter of today's schools estate is constructed using one system or another. Therefore when a fire is reported there is a great likelihood that it will be in a system school.

MEETING THE REGULATIONS

The school premises standard regulations relating to fire performance, first introduced in 1952,

ABOUT ZURICH MUNICIPAL

Zurich Municipal is the leading provider of risk management and insurance solutions to Britain's public services. The company employs nearly 600 staff dedicated to providing expert advice and support to public service providers. For further information visit www.zurichmunicipal.com. Zurich Municipal reached its 10th anniversary in March 2003 – a month that also marked the 100th anniversary of Zurich Municipal's predecessor organisation – Municipal Mutual Insurance.

Zurich Municipal is part of Zurich Financial Services, an insurance-based financial services provider with an international network that focuses its activities on its key markets of North America, the United Kingdom and Continental Europe. Founded in 1872, Zurich is headquartered in Zurich, Switzerland. It has offices in approximately 60 countries and employs about 68,000 people●



*Photograph of a newly completed CLASP project at Kettering Primary School
Architects, Northamptonshire County Council
with Corstorphine and Wright
Constructed by Skanska Integrated Projects under*

have been set out in Building Bulletin 7 and published by the DfES in its various previous incarnations. Initially the policy behind BB7 was concerned more with saving life rather than the loss of property. As a result, in some circumstances, the fire protection of elements of the structure were less than we would expect to see today.

Increasing numbers of fires in schools and high profile incidents of fires with a loss of life in the early 1970s inspired a significant revision to the Building Regulations. These changes were reflected in 1975 in the 5th edition of BB7. However it is to be noted that although the requirements to protect the structure has changed through the numerous editions of BB7 the need to close cavities and the spacing of cavity barriers has remained reasonably consistent.

Speaking for CLASP, but without any cause to doubt that other Consortia systems were not the same, the system's standard documents specified materials, cavity barriers and other details to facilitate the construction of school buildings to meet the regulations of the day. The location of the cavity barriers was a matter for the project architect to decide. In the CLASP handbooks the architect was referred back to BB7 for guidance.

It is appropriate to make two points regarding the Local Authority Consortia designing systems for the construction of schools from the 1950's to 1975. First, the staff and officers of the Consortia were responsible professionals working methodically with the Fire Research Station and others to prove the new technologies they were developing. Second, the systems were client owned with Authorities building schools for their own use. The buildings were designed and financed as permanent construction. Therefore they were required to meet the regulations of the day in the same manner as buildings constructed using traditional tech-



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niques. The Consortia system designs evolved alongside the premises regulations. CLASP moved ahead of the requirements by introducing a one-hour fabric fire protection as standard in 1968/69, which the regulations did not introduce until 1975.

CLASP'S RESPONSE

CLASP members are developing their response to Zurich Municipal. Individually they are negotiating various options including the deferment of the new terms for one year. No doubt Insurance officers and risk managers have their grapevine decimating information on who has achieved what in negotiation.

As for collective action CLASP started by opening a dialogue with Zurich Municipal. It was agreed to assist members and other Authorities to identify the extent of their CLASP stock by distributing a list of their CLASP buildings held on the Consortium's database. A similar exercise had been repeated periodically in the past. This task is now complete.

It is Zurich Municipal's intention to map out the properties that do not have cavity barriers in positions to meet the regulations. Carrying out this exercise is not without logistical difficulty. The recently introduced Asbestos Regulations require that before a cavity barrier survey can be carried out the presence or otherwise of asbestos needs to be proved.

To assist system building owners address any deficiency in the provision of cavity barriers the Consortium intends to put in place a national retrofit programme. This will complement similar maintenance programmes administered by CLASP and include specifications for the work and pre tendered costs determined by a schedule

of rates. It is intended that the technical aspects are developed with Zurich Municipal to ensure that the completed works meet an agreed standard. Also it is proposed to overcome the added logistical difficulties caused by asbestos by having the cavity barrier survey included as an integral part of the programme. It is envisaged that the investigation to determine the presence of cavity barriers will be carried out simultaneously with the survey for asbestos. This will mean the person undertaking this element of the works will have to be qualified and approved to complete both tasks. If sufficient interest can be demonstrated it is intended that tenders for the CLASP Cavity Barrier Retrofit Programme will be sought during the summer and become operational by the autumn.

WORKING WITH ZURICH MUNICIPAL

Our relationships with insurance companies tend to be long term and we love them or hate them, depending whether we are paying the premium or receiving the cheque to cover a loss, we cannot live without them. This is particularly true of Zurich Municipal with its leading position in the market. Therefore it is naturally in our common interest to work with Zurich Municipal to bring about an equitable solution.

In practical terms this will be given expression in the supply of information regarding our school estate to enable Zurich Municipal to evaluate their risk and the development with Zurich Municipal the details of a programme which determines the need for cavity barriers and the extent of the retrofit work. With this approach we can achieve our desired outcome of giving strength to the Authorities' insurance officers to negotiate the most favourable terms●

YOUR COMMENTS ARE REQUESTED ON THIS WEBSITE

This site features background on the Clay Roof Tile Council (CRTC) and links to it's members, the history and benefits of clay, CRTC news and event items, and technical information on clay roof tiling. To ensure that the site meets the needs of the industry, including architects and other specifiers, the CRTC is keen to find out what SCALAnews readers think of the existing content. Respond with your comments to crtc@golleyslater.co.uk before 31 July to take part in a lucky draw to win a bottle of champagne.

Best of luck!



Win a bottle of champagne



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publications

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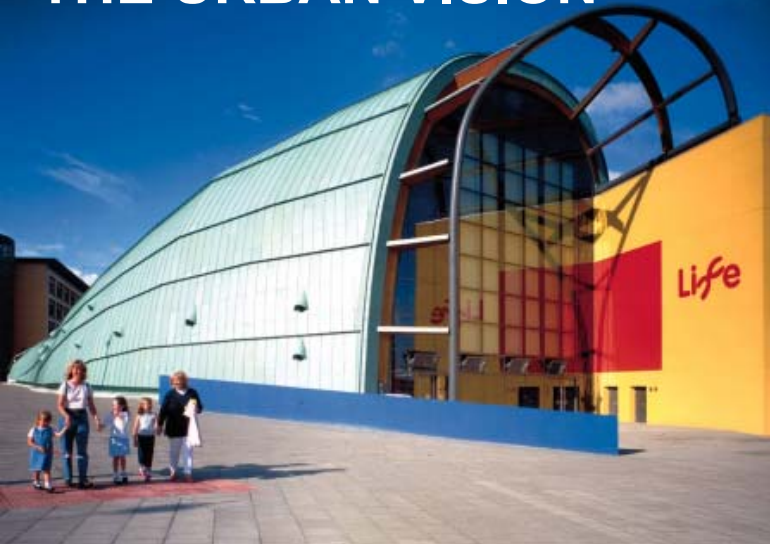
A useful reference when complying with the mandatory PII rules introduced in 2002

◆ PROFESSIONAL INDEMNITY COVER ◆

This SCALA Occasional Paper draws together up to date legal & insurance advice from a wide range of sources. It deals with the complexities associated with working for public sector linked companies, trusts & the like, and the implications of working on projects that hover around the margins of local authority business are described. Also the constraints that preclude local authorities from offering indemnity cover for their elected members. It concludes with a model indemnity clause that is offered as a reasonable foundation for use by professionals in affirming cover for their public sector work.

only £5 a copy from Steve Dodsworth at the above address

THE URBAN VISION



SCALA 2003

Newcastle

17 October 2003

Tony McNulty, Under Secretary of State at the ODPM, will challenge architects to "live a little dangerously" in pushing forward the Government's recently launched Sustainable Communities Plan.

Hear of English Partnership's plans to implement the Sustainable Communities Plan and details of the new imaginative CABE Space programme from Jon Rouse, ideas for new housing development from Wayne Hemingway of Red or Dead fame and Cllr. Mike Henry of Gateshead MBC. Also the aims and objectives of the new European funded PETUS Project from Professor Phil Jones of the Welsh School of Architecture. Mike Britch from NPS Property Consultants will conclude by showing how innovation in the delivery of public services can help achieve 'The Urban Vision'.

Be present when the first SCALA "Building of the Year" award is presented for an outstanding piece of public architecture at the Presidential dinner, the SCALA social event of the year where you can also experience the "hands-on" interactive facilities at the Centre for Life. Join the coach trip on Saturday and see why Newcastle and Gateshead were short listed for the title of European Capital of Culture in 2008 and enjoy the stunning developments in the area.

PROGRAMME FOR SCALA 2003:

OTHER ACTIVITIES

The **PRESIDENTIAL DINNER** starts with pre-dinner drinks at 7.30pm on Friday evening and includes the presentation of the **SCALA BUILDING OF THE YEAR AWARD**. On Saturday the coach will leave the Jury's Inn Hotel at 9.30am for a **COACH TRIP** to see the stunning developments in the area.

FRIDAY 17 OCTOBER

- 9.30am Registration, tea/coffee & viewing of stands
- 10.00am Welcome and introduction by the Chair
NIGEL BADCOCK President of SCALA
- 10.10am **TONY McNULTY** Under Secretary of State ODPM
KEYNOTE ADDRESS
- 10.30am **ENGLISH PARTNERSHIPS** on IMPLEMENTING
THE SUSTAINABLE COMMUNITIES PLAN
- 11.10am Tea/coffee & viewing of exhibitors stands
- 11.30am **PROF. PHIL JONES** Welsh School of Architecture
PRACTICAL EVALUATION TOOLS
FOR URBAN SUSTAINABILITY
- 12.10pm **JON ROUSE** Chief Executive of CABE
THE WORK OF CABESPACE
- 12.50pm Question & answer session followed by lunch
and viewing of exhibitor stands
- 2.00pm **WAYNE HEMINGWAY** 'Streetwise fashion guru'
FASHIONABLE & AFFORDABLE HOMES
- 2.30pm Cllr. **MIKE HENRY** Leader of Gateshead MBC
CHAMPIONING DESIGN IN THE 21st. CENTURY
- 3.00pm Tea/coffee & viewing of exhibitors stands
- 3.20pm **MARK LINTELL** Project Director and **REBECCA
KNIGHT** both of Land Use Consultants
TYNE GORGE URBAN LANDSCAPE STUDY
- 3.50pm **MIKE BRITCH** Managing Director NPS Property
Consultants INNOVATION IN THE DELIVERY
OF PUBLIC SERVICES
- 4.20pm Question & answer session
- 4.30pm Summary by the Chair and conclusion of the event

SCALA 2003

DELEGATE BOOKING FORM

booking details cost quantity

Please complete a separate form for each delegate

SCALA & ACA members booking by 19 Sept. £165

SCALA & ACA members booking after 19 Sept. £190

Non-members £190

Additional delegates from the same office £100

Retired members £85

other conference booking details

Single B&B Thurs/Friday night £75 /

Double/twin B&B Thurs/Friday night (1 or 2 people) £80 /

Presidential Dinner Friday evening £35

Saturday morning coach trip £15

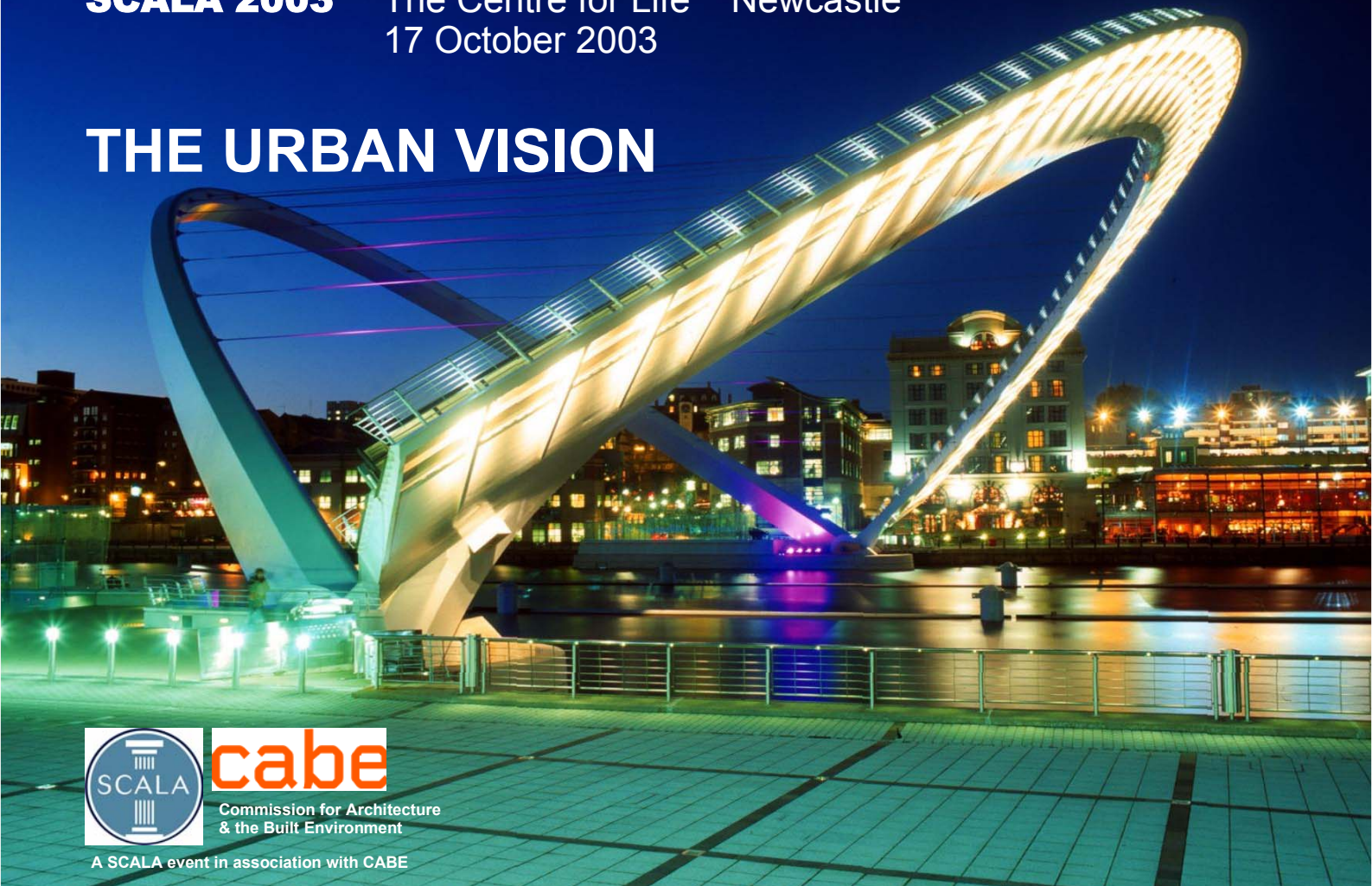
Accommodation is at the Jury's Inn Hotel in Newcastle (location plan on www.scala.org.uk/events.htm) adjacent to the Centre for Life which is where both the event and dinner take place.

Please enter any special dietary requirements or comments below:

Please do not include any payment with your booking as you will be invoiced separately. All prices are subject to VAT at the standard rate. Please note that bookings cancelled up to 3 October will be subject to a cancellation charge of £80 and that no refund can be given after that date.

SCALA 2003 The Centre for Life Newcastle
17 October 2003

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E policy@scala.org.uk where there is also a location plan



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